

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S):	Couts, Jeffrey, et al.	GROUP ART UNIT:	2145
APPLN. NO.:	10/036,790	EXAMINER:	Choudhury, Azizul Q.
FILED:	December 21, 2001	Confirmation No.:	5423
TITLE:	System and Method For Automatically Forwarding a Communication Message		

Pre-Appeal Brief Request for Review

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request review of the final rejection in the above-identified application. No amendments are being filed with this request. The present request is being filed in conjunction with a notice of appeal. The review is being requested for the reasons stated below, which frames the issue to be considered as part of the pre-appeal review process.

The Examiner continues to reject claims 1 – 21 and 23 – 24. More specifically, the Examiner has rejected claims 1 – 21 and 23 – 24 under 35 U.S.C. §103(a), as being unpatentable over US Pub. No: US 2002/0078151A1 (Wickman et al.) in view of US Pat No: US006430604B1 (Ogle et al.). However, contrary to the Examiner's assertions, the combination of references fail to make known or obvious each and every feature of the claims, as presently pending. More specifically, the Examiner relies upon the second reference, US Patent No. US006430604B1 (Ogle et al.), for being obvious over the claimed feature of “forwarding the communication message to a particular next device, associated with a next user, of the at least one next device of the forwarding list if the target device is unavailable for text messaging with the originating device, wherein the forwarding list is a contact or buddy list for an instant messaging system” (Claim 1) or a messaging proxy coupled to messaging server and being effective to “forward the communication message to a particular next device of the at least one next device of the

forwarding list if the target device is unavailable for text messaging with the originating device, the forwarding list is a contact or buddy list for an instant messaging system, wherein the messaging proxy selects a next user from the forwarding list until an available next user is found” (Claim 17).

Where the present application forwards the communication message to a particular next device, associated with a next user, the secondary reference relies upon forwarding a message on a particular alternate delivery mechanism associated with the recipient. Please see Ogle, col. 3, lines 5 – 20; as specifically discussed on page 8 of the Applicant’s after non-final response dated May 04, 2007. More specifically, Ogle while describing FIG’s. 3 and 4 in col. 7 – 9 describes that registry contains entries related to four IMS users. Ogle discloses in FIG. 3 about the alternate delivery mechanisms using which; a user can be reached or contacted if the user is not logged on. In addition, Ogle describes that an IMS server (i.e. IMS 403 in Ogle) will locate an entry for a target user who is not logged on from the registry (i.e. registry 300) and forward a message to the targeted user’s alternate delivery mechanism, as registered in the registry. Hence, Ogle does not teach or suggests Applicant’s claimed invention of “forwarding the communication message to a particular next device, associated with a next user”. Ogle merely teaches of forwarding the message to the targeted user’s alternate delivery mechanism if the targeted user is not logged on. **Ogle does not teach of forwarding this message to a next device, wherein the next device is associated with a next user.**

More specifically, the Examiner asserts that the secondary reference teaches how an instant messaging system is able to use its registry, which the Examiner purports to compare with Applicant’s buddy list. In contrast, Ogle in FIG. 3 describes alternate delivery mechanisms associated with the same user and does not teach or suggest the user’s buddy list comprising alternate users to whom the communication message may be forwarded. Consequently, the communication message not only is not forwarded to a next user based upon the buddy list, but the buddy list is not a list containing alternate users to whom the message can be delivered. Therefore, the combination of references cannot be said to be obvious.

In addition, the Examiner also compares Ogle's ability to send a message to more than one recipient to Applicant's forwarding of the message to a next user. Applicant disagrees with the Examiner's comparison. Ogle in col. 11, lines 52 – 54 describes that it may be desirable to allow messages to be delivered to multiple recipients, each of which may use a different alternative delivery mechanism. However, such an interpretation fails to account for forwarding the communication message to a particular next device associated with a next user, if the target device is unavailable in the claims and the associated features therewith, that are present in the claims. Ogle's message is intended to be sent to multiple recipients and not forward the message to the next user if the target user is unavailable. Consequently, the cited reference fails to relate to the claims at a most basic level, where it cannot be said that the message sent to more than one recipient as taught or suggested by the cited reference is equivalent to the forwarding the communication message featured in the claims.

Therefore, the features alleged by the Examiner to relate to "forwarding the communication message to a particular next device, associated with a next user", alternatively serve to define a respective element in the claims with structural and organizational effect, which in turn relate to a claimed context and corresponding interaction between elements, which is neither anticipated nor obviated by the teachings of the relied upon references cited by the Examiner in support of the rejection. As a result, the Examiner has failed to make known or obvious each and every feature with respect to each of the independent claims, as well as any of the claims which depend therefrom.

In view of the above remarks, the applicants would respectfully request that the Examiner's final rejection of the claims be withdrawn, as failing to make known or obvious each and every feature of the claims, in addition to failing to even attempt to

suggest that each and every feature of the claims is known or obvious, in view of the relied upon reference.

Respectfully submitted,

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